

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THOMAS E. PEREZ, Secretary of Labor,)	
United States Department of Labor,)	
)	Civil Action
Plaintiff)	
)	Case No. 3:12-cv-4798-M
v.)	
)	
THE CHRISTMAS LIGHT COMPANY,)	
LLC f/k/a THE CHRISTMAS LIGHT)	
COMPANY, INC., and WILLIAM F.)	
RATHBURN)	
)	
Defendants.)	
)	

CONSENT JUDGMENT

Plaintiff, Thomas E. Perez, Secretary of Labor, United States Department of Labor (“Plaintiff” or “Secretary”) has filed his complaint and Defendant The Christmas Light Company, LLC f/k/a The Christmas Company, Inc. (“Defendant CLC”) and Defendant William F. Rathburn, Individually (“Defendant Rathburn”) (collectively “Defendants”) without admitting they have violated any provision of the Fair Labor Standards Act of 1938 have agreed to the entry of judgment without contest. It is, therefore, upon motion of the Plaintiff and for cause shown,

ORDERED Defendants, their officers, agents, servants, employees and all persons in active concert or participation with it be permanently enjoined from violating the provisions of Sections 6, 7 & 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201, et seq., hereinafter referred to as the Act, in any of the following manners:

1. Defendants shall not, contrary to Sections 6 and 15(a)(2) of the Act, 29 U.S.C. §§



206 and 215(a)(2), pay any employee who is engaged in commerce or in the production of goods for commerce, or who is employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at a rate less the minimum hourly rates required by Section 6 of the Act.

2. Defendants shall not, contrary to Sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2) employ any employee in commerce or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty (40) hours, unless the employee receives compensation for his or her employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he or she is employed.

3. Defendants shall not, contrary to Sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), fail to make, keep and preserve accurate records of the persons employed by them, and the wages paid, hours worked and other conditions and practices of employment prescribed by regulations issued by the Administrator of the Wage and Hour Division, United States Department of Labor (29 C.F.R. Part 516).

4. Defendant Rathburn acknowledges and agrees as of the date of this Consent Judgment that he is an employer for all purposes under the Act.

5. Defendant CLC has paid to Plaintiff minimum wage and overtime compensation in the amount of \$112,500.00, less appropriate income tax and social security deductions, and liquidated damages in the amount of \$112,500.00, for a total amount of \$225,000.00, which the parties agree, and the Court finds, is due under the Act to Defendants' employees named in the attached Exhibit A for the period January 1, 2010 through December 31, 2011. Plaintiff shall make appropriate distribution of the unpaid compensation to the employees, or their estate if


necessary. In the event that any of the money cannot be distributed within three (3) years hereof because of inability to locate the proper person, or because of their refusal to accept, the money shall be deposited with the United States Treasury.

6. The right of Defendants' employees not specifically named in "Exhibit A" attached hereto to bring an action under Section 16(b) of the Fair Labor Standards Act 29 U.S.C. § 216(b), shall be restored and neither the filing of this action nor the entry of this judgment shall bar an action and the statute of limitations in such action shall be deemed tolled from January 1, 2010 to December 31, 2011. The parties agree the filing of this action and provisions of this judgment shall not be interpreted to prejudice or preclude the rights of the Secretary of Labor, or any employees of Defendants, in any action filed by the Secretary of Labor, or by an employee, under the Act covering violations alleged to have occurred after December 31, 2011.

7. Defendants agree to retrain its foremen and supervisors to ensure that all employees' hours are reported accurately in order to ensure that all employees are paid properly, including but not limited to at least the minimum wage rate and overtime wage rate when working more than forty (40) hours per workweek. This training requirement also applies to all newly hired and/or promoted foremen and supervisors who were hired and/or received such promotion on or subsequent to January 1, 2014. On or before March 31, 2014, Defendants agree to provide all employees a one-page written memorandum and/or one-page written flyer in their native language/tongue that describes the wage rate each employee is paid as it relates to the minimum wage, explains the applicability of the overtime wage rate to each employee, and emphasizes the importance and need for all employees to report their hours worked accurately so to ensure they are properly compensated for each workweek.


8. Each party agrees to bear his or her own attorneys' fees, costs and other expenses

in connection with any stage of this proceeding, including, but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

By: 
Matthew P. Sallusti
State Bar No. 24013447


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Attorneys for Defendants

By: 
William F. Rathburn
Individual

Dated this ____ day of _____, 2014.

BARBARA M.G. LYNN
UNITED STATES DISTRICT JUDGE

EXHIBIT A

1. Ernesto Grana Acosta
2. Lazaro Acosta
3. Alfredo Agundis
4. Efrain Agundis
5. Joel Agundis
6. Jonatan Agundis-Rodriguez
7. Vicente Reyes Albino
8. Otilio Almanza
9. William Alvarez
10. Aaron D. Angeles
11. Omar Anguiano
12. Osvaldo Arroyo
13. Damian Santana Arteaga
14. Jesus Roman Arteaga
15. Agustin Aviles
16. Juan B. Ballesa
17. Moshe A. Barillas
18. Michael Barrera
19. Shane Barrios
20. Francisco Bocanegra
21. Juan E. Bocanegra
22. Camilo Bojay
23. Israel Bolanso
24. Juan A. Bravo
25. Alex M. Caceres-Diaz
26. Oscar Calcanas
27. Wilmer Campos
28. Felipe Castenda
29. Antoni Castillo
30. Elpidio Castillo
31. Jose F. Castillo
32. Jose G. Castro
33. Ruben Castro
34. Nestor Catalan
35. Luis Chavez
36. Martin Chihuahua

- 37. Anthony Childress
- 38. Juan C. Compos
- 39. Giovanne Contreras
- 40. Samuel Corona
- 41. Hector Coronado
- 42. Ausencio Corona-Ortega
- 43. Edson J. Cortez
- 44. Juan Pablo Cortez
- 45. Eduardo Cruz
- 46. Francisco Cruz
- 47. Juan Diego Cruz
- 48. Ruben Cruz
- 49. Jacinto Cruz-Badillo
- 50. Esteban Dejesus
- 51. Raul C. Dejesus
- 52. Luis A. Deleon
- 53. Rigoberto Deleon
- 54. Juan Oreje Delgado
- 55. Luis M. Deluna
- 56. Michael T. Duff
- 57. Jose G. Espinosa
- 58. Miguel A. Estrada
- 59. Daniel Fernandez
- 60. Ruben Flores
- 61. Valentin Flores
- 62. Edgar David Flores-Jaramillo
- 63. Angelica Flowers
- 64. Luis Rey Fonseca
- 65. Jose F. Fraire
- 66. Serafin P. Fuentes
- 67. Javier Gamez
- 68. Juan S. Gamino
- 69. Alfredo B. Garcia
- 70. Efrain Garcia
- 71. Fausto Garcia
- 72. Jonathan Garcia
- 73. Jose Fernando Garcia
- 74. Jose Joaquin Garcia
- 75. Mario Agund Garcia
- 76. Sistos Garcia
- 77. Oscar G. Gomez

78. Pablo Rube Gomez-Rodrigue
79. Jose Enri Gonzalez
80. Jose Jaram Gonzalez
81. Raul B. Gonzalez
82. Reynaldo Gonzalez
83. Roberto Gonzalez
84. Eduardo Granados
85. Jose Alfre Guerra
86. Kirk Hanson
87. Julio Cesar Hernandez A
88. Alejandro Hernandez
89. Antonio Hernandez
90. Daniel A. Hernandez
91. Daniel M. Hernandez
92. Elmer E. Hernandez
93. Felipe Marin Hernandez
94. Gelmer Hernandez
95. Jose R Hernandez
96. Julian Hernandez
97. Julio Hernandez
98. Victor Hernandez
99. Daniel Hernandez-Delacruz
100. Jorge S. Herrera
101. Guillermo Ibarra
102. Madonio G. Jaramillo
103. Korina J. Johnson
104. Gerardo Juarez
105. Gustavo Juarez
106. Hector Juarez
107. Emmanuel Ray Kennedy
108. Denis A. Lara-Ramirez
109. Sarah Lari
110. David Leon
111. Jesus Loperena
112. Rigoberto Lopez
113. Ana Luna
114. Daniel Macareno
115. Albert Macedo
116. Jesus Magallanez
117. Francisco Javie Maldonado
118. Carlos Marin

119. Carlos M. Martinez
120. Edwin A. Martinez
121. German A. Martinez
122. Ruben Martinez-Perez
123. Samuel Martinez-Perez
124. Cruz Medrano
125. Andres Mejorada
126. Pedro Melendez
127. Daniel Mendoza
128. Edwin Mendoza
129. Miguel Angel Mendoza-Flores
130. Jose Ramon Tovar Morales
131. Jose Ulice Moreno
132. Elias L. Munoz
133. Jose Delc Munoz
134. Jesus Murillo
135. James U. Nixon
136. John Smith Njigba
137. Mizael Ortega
138. Rogelio Ortega
139. Mario Ovalle
140. Bartolo H. Oviedo
141. Odilber Ridon Padillo
142. Adalberto Perez
143. Antonio F. Perez
144. Arturo Cruz Perez
145. Genaro Perez
146. Hector Medrano Perez
147. Jose Luis Perez
148. Juan A. Perez
149. Mario Perez
150. Orlando Perez
151. Ramon F. Perez
152. Refugio Perez Perez
153. Santiago Perez
154. Abel Piedra Jr.
155. Juan Pina
156. Mario M. Pluma
157. Juan A. Ponce
158. Sergio Aniba Ponciano
159. Felipe H. Portes

160. Alejandro Portillo
161. Rogelio Puente
162. Agustin Ramirez
163. Alfredo G. Ramirez
164. Andres B. Ramirez
165. Clifas Ramirez
166. Teodoro Ramirez
167. Hector Ramos
168. Raul Ramos
169. Heriberto Rangel
170. Ruben Resendiz-Martinez
171. Camacho C. Reyes
172. Rogelio Reyes
173. Jose Luis Reynoso
174. Francisco A. Rios
175. Miguel Rios
176. Nelson Mauri Rivas
177. Jorge Dioni Rivero
178. Mazabith Rivero
179. Alejandro S. Rocha
180. Carlos Rocha
181. Hugo Rodriguez
182. Israel Rodriguez
183. Jose Rodriguez
184. Manuel Rodriguez
185. Juan Rojas
186. Victor M. Roman
187. Kerry Xavie Ross II
188. Kerry Ross
189. Adrian Ruiz
190. Encarnacion G. Ruiz
191. Jairo Ruiz
192. Ruben Ruiz
193. Gilbert Z. Saldivar
194. Armando Munoz Sanchez
195. Javier L. Sanchez
196. Ascencion Santana
197. Genaro Santana
198. Jose A. Santana
199. Miguel A. Santana
200. Apolinar Cruz Santiago



201. Melquiades J. Santiago
202. Alejandro Serrano
203. Jose Silvestre
204. Manuel Solis
205. Lazaro Solorzano
206. Albert Taylor
207. Jose Tellez
208. Justin B. Thompson
209. Roberto Tinoco
210. Leobardo Torres
211. Marco Torres
212. Oliver Triana
213. Eduardo F. Valdez
214. Ariel Valenzuela
215. Roberto Carlo Varela
216. Jose Ricar Vargas
217. Marcus Vargas
218. Salvador Vargas
219. Antonio M. Vasquez
220. Hipolito Vasquez
221. Francisco B. Vazquez
222. Jose Ramir Vazquez
223. Marcos Velazquez
224. Francisco Javier Moreno Vielma
225. Max A. Wingate
226. Peter C. Wingate
227. Blas S. Yanes
228. Benancio Zarzoza